



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

APPLICANTS: Mottier, Matthew D., et al.

EXAMINER: Zimmerman, B

SERIAL NO: 08/220,851

GROUP: 2604

FILED: March 31, 1994

CASE NO.: CE0497RD01

ENTITLED: RADIO WITH SILENT AND AUDIBLE ALERTS

Motorola, Inc.
Intellectual Property Department
600 N. U.S. Highway 45
Libertyville, IL 60048

APPEAL BRIEF FOR APPELLANT UNDER 37 C.F.R. § 1.192

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

Responsive to the examiner's letter dated March 25, 1997, the applicants hereby submit the following appeal brief.

I. Real Party in Interest

The real part in interest and the assignee of the present application is Motorola, Inc.

II. Related Appeals and Interferences

None

III. Status of Claims

Claims

Status

19-24, 26-31, 33-38

Pending in the application.

25, 32, 39

Cancelled, without prejudice.

19-24, 26-31, 33-38

Rejected in the application.

19-22, 24-37, 34-37

Appealed.

IV. Status of Amendments

The most recent amendment to the claims in the applicant's response dated December 23, 1996 has been entered by the examiner and are included in the claims in the attached appendix.

V. Summary of Invention

A radio 10 for communicating radio frequency (RF) call signals 12 comprises an antenna 14, a transmitter 40, a receiver 16, a first generator 24, a second generator 22, and a processor 20. The antenna 14 receives a first RF call signal and transmitting a second RF call signal. The transmitter 40, coupled to the antenna 14, generates the second RF call signal. The receiver 16, coupled to the antenna 14, receives the first RF call signal. The first generator 24 periodically generates (p. 7, line 12), when enabled, a silent alert for a first predetermined number of cycles 72, 74, 76, (p. 7, line 12). Each cycle of the first predetermined number of cycles 72, 74, 76 includes a first time period when the silent alert is generated followed by a second time period when the silent alert is not generated. A second generator 22 periodically generates (p. 7, line 12), when enabled, an audible alert for a second predetermined number of cycles 79, 80, 81, (p. 7, line 12). Each cycle of the second predetermined number of cycles 79, 80, 81 includes a first time period when the audible alert is generated followed by a second time period when the audible alert is not generated. The processor 20, coupled to the receiver 16, enables the first generator 24 when the first RF call signal is received, and, after at least one of the first predetermined number of cycles 72, 74, 76, enables the second generator 22.

Further, a battery 50 powers the radio 10.

Further, a display 26 displays at least one of the first and the second RF call signals.

Further, a speaker 22, coupled to the receiver 16, emits the first RF call signal.

Further, a microphone 42, coupled to the transmitter 40, generates call signals.
Preferably, the silent alert 24 is a vibrating alert 24.

VI. Issue

1. Whether the examiner erred in objecting to the specification and rejecting claims 19-22, 24-37, 34-37 under 37 CFR 112, first paragraph for the examiner's reason that the specification, as originally filed, does not provide support for the invention as now claimed because the claimed definition of a cycle as comprising "a first period when the alert is generated followed by a second period when the alert is not generated," is not supported by the specification as originally filed.

VII. Grouping of Claims

Claims 19-22, 24-37, 34-37 stand or fall together.

VIII. Arguments

The examiner erred in objecting to the specification and rejecting claims 19-22, 24-37, 34-37 under 37 CFR 112, first paragraph because the specification, as originally filed, provides support for the invention as now claimed because the claimed definition of a cycle as comprising "a first period when the alert is generated followed by a second period when the alert is not generated," is supported by the specification as originally filed.

1. The specification provides numerous references to a "cycle" and its definition in the specification including: FIGs. 2-1 and 2-2; page 7, lines 10-26; page 9, lines 20-34; page 10, lines 1-35; and page 11, lines 1-7. In particular, the alert cycles are "periodic" as opposed to continuous as noted on page 7, lines 10-12.

2. The plain meaning of "cycle" and "periodic" together comprise the meaning "a first period when the alert is generated followed by a second period when the alert is not generated."

"Cycle" is defined in Webster's Ninth New Collegiate Dictionary as "1: an interval of time during which a sequence of a recurring succession of events or phenomena is completed 2 a: a course or series of events or operations that recur regularly and usu. lead back

to the starting point. b: one complete performance of a **vibration, electric oscillation**, current alternation or other periodic process ... “ (emphasis added)

“Periodic” is defined in Webster’s Ninth New Collegiate Dictionary as: “1: occurring or recurring at regular intervals 2 a: consisting of or containing a series of repeated stages, processes or digits: **cyclic** (decimals) (a **vibration**) b: being a function of any value of which recurs at regular intervals ...”. (emphasis added)

3. The same examiner as in the present case allowed the disputed language in copending application serial number 08/220,856 (docket number CE00497RD02) when the foregoing arguments were presented. The issue fee has been paid for application serial number 08/220,856. Therefore, the examiner’s rejection in this case is inconsistent with the other case.

For the foregoing reasons, the applicants respectfully submit that examiner erred in making the above-mentioned objection and rejection. Therefore, the applicants respectfully request that this Board of Appeals direct the examiner to permit the disputed claim language.

IX. Provisional non-obviousness type double patenting rejection.

Responsive to the rejection provisionally rejecting claims 19, 24, 29 and 34 over claims 1, 18, 19 and 20 of application no. 08/220,949 and claims 19, 26 and 33 of application no. 08/220,949 under the judicially created doctrine of non-obviousness type double patenting, the applicants hereby submit a terminal disclaimer to overcome the rejection.

Respectfully submitted,
MOTTIER, ET AL.

Please forward correspondence to:

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APPENDIX

SERIAL NO.: 08/220,851

FILED: March 31, 1994

Claims 19-22, 24-37, 34-37 involved in the present appeal are presented below along with the remaining pending claims.

19. A radio for communicating radio frequency (RF) call signals comprising:
 - an antenna for receiving a first RF call signal and transmitting a second RF call signal;
 - a transmitter coupled to the antenna for generating the second RF call signal;
 - a receiver coupled to the antenna for receiving the first RF call signal;
 - a first generator for periodically generating, when enabled, a silent alert for a first predetermined number of cycles, wherein each cycle of the first predetermined number of cycles includes a first time period when the silent alert is generated followed by a second time period when the silent alert is not generated;
 - a second generator for periodically generating, when enabled, an audible alert for a second predetermined number of cycles, wherein each cycle of the second predetermined number of cycles includes a first time period when the audible alert is generated followed by a second time period when the audible alert is not generated; and
 - a processor coupled to the receiver for enabling the first generator when the first RF call signal is received, and, after at least one of the first predetermined number of cycles, enabling the second generator.
20. The radio according to claim 19, further including a battery for powering the radio.
21. The radio according to claim 19, further including a display for displaying at least one of the first and the second RF call signals.
22. The radio according to claim 19, further including a speaker coupled to the receiver for emitting the first RF call signal.

23. The radio according to claim 19, further including a microphone coupled to the transmitter for generating call signals.

24. The radio according to claim 19, wherein the silent alert is a vibrating alert.

25. Canceled 6/29/95, without prejudice.

26. A radio for communicating radio frequency (RF) call signals comprising:
an antenna for receiving a first RF call signal and transmitting a second RF call signal;
a keypad for generating data signals;
a transmitter coupled to the keypad and the antenna and being responsive to the data signals for generating the second RF call signal;
a receiver coupled to the antenna for receiving the first RF call signal;
a first generator for periodically generating, when enabled, a silent alert for a first predetermined number of cycles, wherein each cycle of the first predetermined number of cycles includes a first time period when the silent alert is generated followed by a second time period when the silent alert is not generated;
a second generator for periodically generating, when enabled, an audible alert for a second predetermined number of cycles, wherein each cycle of the second predetermined number of cycles includes a first time period when the audible alert is generated followed by a second time period when the audible alert is not generated; and
a processor coupled to the receiver for enabling the first generator when the first RF call signal is received, and, after at least one of the first predetermined number of cycles, enabling the second generator.

27. The radio according to claim 26, further including a battery for powering the radio.

28. The radio according to claim 26, further including a display for displaying at least one of the first and the second RF call signals.

29. The radio according to claim 26, further including a speaker coupled to the receiver for emitting the first RF call signal.

30. The radio according to claim 26, further including a microphone coupled to the transmitter for generating call signals.

31. The radio according to claim 26, wherein silent alert is a vibrating alert.

32. Canceled 6/29/95, without prejudice.

33. A radio for communicating radio frequency (RF) call signals comprising:
an antenna for receiving a first RF call signal and transmitting a second RF call signal;
a transmitter coupled to the antenna for generating the second RF call signal;
a receiver coupled to the antenna for receiving the first RF call signal;
a first generator for periodically generating, when enabled, a silent alert for a first predetermined number of cycles, wherein each cycle of the first predetermined number of cycles includes a first time period when the silent alert is generated followed by a second time period when the silent alert is not generated;

a second generator for periodically generating, when enabled, an audible alert for a second predetermined number of cycles, wherein each cycle of the second predetermined number of cycles includes a first time period when the audible alert is generated followed by a second time period when the audible alert is not generated; and

a processor coupled to the receiver for enabling the second generator when the first RF call signal is received, and, after at least one of the second predetermined number of cycles, enabling the first generator.

34. The radio according to claim 33, further including a battery for powering the radio.

35. The radio according to claim 33, further including a display for displaying at least one of the first and the second RF call signals.

36. The radio according to claim 33, further including a speaker coupled to the receiver for emitting the first RF call signal.

37. The radio according to claim 33, further including a microphone coupled to the transmitter for generating call signals.

38. The radio according to claim 33, wherein the silent alert is a vibrating alert.

39. Canceled 6/29/95, without prejudice.